

## Federal Acquisition Regulation

## 22.103-5

lower overall costs to the Government will result or when it is necessary to meet urgent program needs. Any approved overtime, extra-pay shifts, and multishifts should be scheduled to achieve these objectives.

### 22.103-3 Procedures.

(a) Solicitations normally shall not specify delivery or performance schedules that may require overtime at Government expense.

(b) In negotiating contracts, contracting officers should, consistent with the Government's needs, attempt to (1) ascertain the extent that offers are based on the payment of overtime and shift premiums and (2) negotiate contract prices or estimated costs without these premiums or obtain the requirement from other sources.

(c) When it becomes apparent during negotiations of applicable contracts (see 22.103-5(b)) that overtime will be required in contract performance, the contracting officer shall secure from the contractor a request for all overtime to be used during the life of the contract, to the extent that the overtime can be estimated with reasonable certainty. The contractor's request shall contain the information required by paragraph (b) of the clause at 52.222-2, Payment for Overtime Premiums.

### 22.103-4 Approvals.

(a) The contracting officer shall review the contractor's request for overtime. Approval of the use of overtime may be granted by an agency approving official after determining in writing that overtime is necessary to—

(1) Meet essential delivery or performance schedules;

(2) Make up for delays beyond the control and without the fault or negligence of the contractor; or

(3) Eliminate foreseeable extended production bottlenecks that cannot be eliminated in any other way.

(b) Approval by the designated official of use and total dollar amount of overtime is required before inclusion of an amount in paragraph (a) of the clause at 52.222-2, Payment for Overtime Premiums.

(c) Contracting officer approval of payment of overtime premiums is required for time-and-materials and

labor-hour contracts (see paragraph (a)(8) of the clause at 52.232-7, Payments Under Time-and-Materials and Labor-Hour Contracts).

(d) No approvals are required for paying overtime premiums under other types of contracts.

(e) Approvals by the agency approving official (see 22.103-4(a)) may be for an individual contract, project, program, plant, division, or company, as practical.

(f) During contract performance, contractor requests for overtime exceeding the amount authorized by paragraph (a) of the clause at 52.222-2, Payment for Overtime Premiums, shall be submitted as stated in paragraph (b) of the clause to the office administering the contract. That office will review the request and if it approves, send the request to the contracting officer. If the contracting officer determines that the requested overtime should be approved in whole or in part, the contracting officer shall request the approval of the agency's designated approving official and modify paragraph (a) of the clause to reflect any approval.

(g) Overtime premiums at Government expense should not be approved when the contractor is already obligated, without the right to additional compensation, to meet the required delivery date.

(h) When the use of overtime is authorized under a contract, the office administering the contract and the auditor should periodically review the use of overtime to ensure that it is allowable in accordance with the criteria in part 31. Only overtime premiums for work in those departments, sections, etc., of the contractor's plant that have been individually evaluated and the necessity for overtime confirmed shall be considered for approval.

(i) Approvals for using overtime shall ordinarily be prospective, but, if justified by emergency circumstances, approvals may be retroactive.

[48 FR 42258, Sept. 19, 1983, as amended at 71 FR 57367, Sept. 28, 2006; 72 FR 6882, Feb. 13, 2007]

### 22.103-5 Contract clauses.

(a) The contracting officer shall insert the clause 52.222-1, Notice to the